



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fifth Legislature
Second Regular Session

HB 2411: coal combustion residuals program

Sponsor: Representative Griffin, LD 14

Committee on Natural Resources, Energy & Water

Overview

Authorizes the Arizona Department of Environmental Quality (ADEQ) to establish and operate a program to regulate disposal of coal combustion residuals (CCR).

History

CCRs are generated by coal fired power plants and consist of several byproducts which can be harmful to the environment and human health. The Resource Conservation and Recovery Act authorizes the Environmental Protection Agency (EPA) to regulate CCR disposal. This act also allows a state, with EPA approval, to establish a CCR permit program provided it complies with applicable federal regulations and other criteria. The EPA must implement CCR programs in states without approved programs ([42 U.S.C. § 6945\(d\)](#)).

Regulations for disposing of CCRs were initially finalized in 2015 but have been subject to several rounds of litigation and revision. The final regulations were adopted in 2019 and established requirements for locating, designing, operating, monitoring, taking corrective actions and closing new CCR landfills, existing and new CCR surface impoundments, and lateral expansions of CCR units ([40 Code of Federal Regulations Part 257, Subpart D](#)).

Provisions

CCR Program (Sec. 19)

1. Authorizes ADEQ to adopt rules for a CCR program at least as protective as the federal program to obtain EPA approval to operate the federal CCR program.
2. Forbids CCR program rules from being more stringent than or conflicting with the applicable federal regulations for nonprocedural standards, except that ADEQ can adopt:
 - a) aquifer protection standards more stringent than the federal CCR regulations if these standards are consistent with and no more stringent than the standards developed for aquifer protection permits; and
 - b) safety standards for CCR surface impoundments more stringent than the federal CCR regulations if these standards are consistent with and no more stringent than current state dam safety standards and are in existence for CCR surface impoundments on this act's effective date.
3. Outlines the requirements for individual CCR permit rules, which include public notice and participation, 10-year terms with mandatory renewal, reporting and fees.
4. Requires CCR permit fees to be deposited into the Solid Waste Fee Fund.
5. Allows facilities with CCR units to submit a permit application for each CCR within 180 days of the effective date of the design and operation rules for CCR facilities.
6. Requires facilities with CCR units to submit a permit application for each CCR unit at the facility within 180 days of CCR program approval.

7. Authorizes ADEQ, after CCR program approval, to compel information from CCR unit owners and operators to evaluate compliance with applicable statutes, rules and permits.

Regulatory Scope

8. Excludes, from oversight of dams by the Arizona Department of Water Resources, any CCR surface impoundment regulated by a CCR program permit and approved for CCR surface impoundment safety by the EPA. (Sec. 1)
9. Exempts CCR units regulated under federal regulations or by a permit from an EPA-approved program from aquifer protection permits. (Sec. 2)
10. Clarifies that ADEQ's rules and requirements for solid waste facilities do not apply to facilities regulated by the CCR program. (Sec. 4-10)

Enforcement

11. Prohibits ADEQ from granting a variance or temporary authorization to operate if it is inconsistent with the federal standards for CCR disposal. (Sec. 11)
12. Declares that any final agency order issued under the CCR program is subject to judicial review. (Sec. 12)

Demonstrating Financial Responsibility

13. Prohibits a solid waste facility handling CCRs from operating until it has shown financial responsibility for the costs of closure, postclosure care and (when applicable) corrective actions for known releases, starting 180 days after the effective date of the CCR program approval. (Sec. 13)
14. Allows existing solid waste facilities regulated under the CCR program to submit the required financial responsibility components to ADEQ within 180 days of the applicable design and operation rules' effective date. (Sec. 13)
15. Requires applicable solid waste facilities to submit the necessary financial responsibility components to ADEQ within 180 days of CCR program approval. (Sec. 13)
16. Allows a solid waste facility operating before the effective date of CCR program approval to continue operating while ADEQ reviews its submissions. (Sec. 13)
17. Specifies that a local governmental agency with CCR units may demonstrate financial responsibility by including details on financial arrangements to meet the estimated closure and postclosure costs without specifying a specific financial assurance mechanism. (Sec. 13)

Compliance Orders and Injunctive Relief

18. Authorizes ADEQ to:
 - a) issue a compliance order when an individual is violating any condition of a CCR permit once the CCR program is approved; and (Sec. 14)
 - b) request a temporary restraining order, preliminary injunction, permanent injunction or other relief to the protect the public when an individual is violating any CCR statute, rule or permit. (Sec. 15)
19. Declares that someone who violates any CCR statute, rule or permit is subject to a civil penalty of up to \$1,000 per day not to exceed \$15,000 for each violation. (Sec. 15)
20. Prohibits operating a solid waste facility in a manner inconsistent with CCR rules. (Sec. 16)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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Definitions

21. Defines *beneficial use of CCR*, *CCR pile or pile*, *CCR program approval*, *CCR surface impoundment or impoundment*, *coal combustion residuals or CCR*, *coal combustion residuals landfill or CCR landfill*, *coal combustion residuals unit or CCR unit*, *existing CCR landfill*, *existing CCR surface impoundment* and *lateral expansion*. (Sec. 3)
22. Adds to the definition of *closed solid waste facility* a CCR unit when no more residuals are placed in the unit and the unit's owner or operator has completed closure and begun postclosure care in compliance with applicable federal regulations or the EPA-approved program. (Sec. 3)
23. Clarifies that:
 - a) a *solid waste landfill* does not include a *CCR landfill*; and
 - b) a *facility plan* excludes designs or operating plans for solid waste facility with a CCR-plan permit. (Sec. 3)

Miscellaneous

24. Makes technical and conforming changes. (Sec. 3-10, 13, 16-18)